

VZCZCXRO3903  
PP RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR  
DE RUEHVJ #0161/01 0291306  
ZNY CCCCC ZZH  
P 291306Z JAN 08  
FM AMEMBASSY SARAJEVO  
TO RUEHC/SECSTATE WASHDC PRIORITY 7728  
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY  
RUEHBW/AMEMBASSY BELGRADE PRIORITY 0517  
RUEHTC/AMEMBASSY THE HAGUE PRIORITY 0165  
RUEHVB/AMEMBASSY ZAGREB PRIORITY 0504  
RUCNDT/USMISSION USUN NEW YORK PRIORITY 0087  
RUEKJCS/JOINT STAFF WASHINGTON DC PRIORITY  
RUEAIIA/CIA WASHINGTON DC PRIORITY  
RUEAWJA/DEPT OF JUSTICE WASHINGTON DC PRIORITY  
RHEFDIA/DIA WASHINGTON DC PRIORITY  
RHEHNSC/NSC WASHDC PRIORITY  
RUFOAOA/USNIC SARAJEVO BK PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 000161

SIPDIS

SIPDIS

DEPT FOR EUR (DICARLO), EUR/SCE (HOH, FOOKS, STINCHCOMB),  
S/WCI (WILLIAMSON, LAVINE), EUR/ACE (TEFFT, DUNN), INL  
(KIMMEL),  
L/EUR - KJOHNSON, INR/GGI - MARGULIES/MORIN; NSC FOR BRAUN;  
OSD FOR BEIN; DOJ FOR OPDAT (KARL ALEXANDRE)

E.O. 12958: DECL: 01/29/2018  
TAGS: [PGOV](#) [PREL](#) [KAWC](#) [KCRM](#) [KJUS](#) [BK](#)  
SUBJECT: ICTY LEGACY VISIT TO BOSNIA

REF: A. 07 SARAJEVO 2555  
[1](#)B. 07 SARAJEVO 2682  
[1](#)C. 07 SARAJEVO 2201

Classified By: Political Counselor Michael J. Murphy

#### Summary

[1](#)1. (U) During a January 16-18 visit to Sarajevo, Bosnia Desk Officer Anna Stinchcomb, S/WCI Special Assistant Matt Lavine, Embassy The Hague's Deputy Legal Counselor Denise Manning, and S/WCI Regional FSN Dubravko Bolsec met with key justice officials, representatives from international organizations, and NGOs to discuss International Criminal Tribunal for the former Yugoslavia (ICTY) legacy issues. Key justice officials largely focused on the challenges they face in prosecuting war crimes cases, initiatives that are underway to increase the State Court and State Prosecutor's efficiency and effectiveness, and competing ideas to restructure the judiciary. Other themes interlocutors stressed included whether to house ICTY archives in Sarajevo, the need for more robust public relations operations from ICTY and the BiH State Court and State Prosecutor's Office, technical problems related to case transfers from ICTY to Bosnia, the need for continued international presence at the State Court, and capturing Radovan Karadzic and Ratko Mladic before the ICTY closes. End Summary.

#### Top Justice Officials Weigh in

[1](#)2. (U) During a January 16-18 visit, Bosnia Desk Officer Anna Stinchcomb, S/WCI Special Assistant Matt Lavine, Deputy Legal Counselor at Embassy The Hague Denise Manning, and S/WCI Regional FSN Dubravko Bolsec met with key justice officials at the State Court and State Prosecutor's Office to discuss issues that will likely arise in Bosnia after the International Tribunal for the former Yugoslavia (ICTY) shuts down. In meeting with interlocutors, they acknowledged the progress made by the State Court and State Prosecutor's Office over the past six months. This includes the creation

by the State Prosecutor's Office of a case selection strategy based, in part, on a demographic analysis of war crimes committed nation-wide, and ongoing work to draft a national action plan for prosecution of war crimes cases (Ref A).

13. (C) The discussions with Meddzida Kreso, the State Court's President, and Branko Peric, the President of the High Judicial and Prosecutorial Council (HJPC), highlighted key obstacles each faced and competing ideas they have about structural changes needed to bolster the judiciary's ability to prosecute war crimes. Kreso hoped to create satellite offices of the State Court, aimed at harmonizing policies and practices at state and entity levels and speeding up the prosecution of cases (Ref B). She also mentioned creating a Balkan arrest warrant, along the lines of the EU's arrest warrant, to allow authorities in the region to return suspected war criminals to the countries where their alleged crimes took place. When asked about practical, short-term steps the Court could take to improve its operations, Kreso admitted that the Court needed to maximize efficiency in the use of courtrooms and scheduling of sessions to reduce the length of trial proceedings (Ref C).

14. (C) Peric voiced concern about the shortage of high-quality judges at the State Court, which he attributed to entity Supreme Court and other judges, perception that the State Court is a lower court, and to a shortage of qualified applicants. He claimed that the establishment of a separate appeals court at the State level would increase the desirability of judgeships. He also claimed that some cantonal and district courts function better than the State Court, arguing that it would be better for Bosnia to decentralize the prosecution of war crimes, so that

SARAJEVO 00000161 002 OF 003

State-level institutions deal only with the most serious cases. Rather than create satellite offices for the Court as Kreso had suggested, Peric said Bosnia should address shortcomings in the present organizational structure to speed up the processing of war crimes cases. (Note: We support proposals to make the court more efficient and to solve the problem of a lack of quality judges, but we have not commented on the varying proposals from Kreso and Peric. End Note.) State Prosecutor Marinko Jurcevic took a more inward-looking approach and attempted to take credit for the work of the U.S. secondee who is the Head of the Special Department for War Crimes, such as the planned opening of an office in Srebrenica. Jurcevic raised familiar complaints about the political pressure he is under to produce results.

#### Other Justice Officials on Nuts-and-Bolts Issues

-----

15. (C) Other justice contacts provided details about the progress being made and the challenges their institutions face. The Head of the Special Department for War Crimes said his office will focus on prosecuting the twenty most significant war crimes cases in each of five of six prosecutorial regions. In addition, it is instituting case activity reporting, coordinating internally and with cantonal prosecutors to combine cases to lessen the burden on victims, and coordinating with colleagues in the region on data collection efforts. Toby Cadman, the Deputy Prosecutor Registrar, briefed on the draft national action plan for the prosecution of war crimes, a work in progress.

16. (SBU) U.S. secondee Judge Shireen Fisher stressed outstanding technical problems, including the need to change protective orders at the ICTY and the Court's inability to use audio recordings of ICTY trials because they have not been redacted. She advocated continued international presence at the Court, at least on appeals panels, maintaining that it would provide necessary political cover to locals. Registrars Biljana Potparic-Lipa and Dubravka Piotrovski reiterated concerns about the shortage of judges, and noted the lack of funding for translation, and the need

to maintain salary levels in order to keep staff on board.

#### The View from International Organizations

-----

¶17. (SBU) Representatives from ICTY, the Organization for Cooperation and Security in Europe (OSCE), the United Nations Development Program (UNDP), and the International Committee for Missing Persons (ICMP) also weighed in on the way ahead. Donald King, Deputy Head of the ICTY Sarajevo office, opined that the Court's Special Department for War Crimes would be in shambles without continued international presence. OSCE officials cited continuing issues, such as the lack of information-sharing between judges and the poor quality of commentary on war crimes cases. Katherine Bomberger, the Director of ICMP, provided useful details about the types of information her staff gathers during exhumations of mass graves that is later passed on to prosecutors. She expressed willingness to work with the U.S. to continue the dialogue on ICTY legacy issues with victims and returnee groups, an offer the group welcomed. John Furnari, a UNDP Project Manager, briefed the group on the objectives of a transitional justice project, but admitted that the project will be a hard sell to the Bosnian public who still expect all or a great majority of war crimes cases to go to trial.

#### The View from NGOs

-----

¶18. (U) During meetings with local NGOs -- the Research and Documentation Center - Sarajevo (RDS), the Balkan Investigative Reporting Network (BIRN), the Mothers of Srebrenica -- the group heard mixed views about the future. Mirsad Tokaca, RDS Director, spoke passionately about having an interactive international center housing ICTY archives in

SARAJEVO 00000161 003 OF 003

Sarajevo, since, according to him, eighty percent of ICTY cases are related to Bosnia. In a welcome development, he noted increased cooperation with the State Prosecutor's Office. Representatives at BIRN, a media outlet which monitors every case tried at the State Court, stated that in the past two years, they have seen greater public trust in the authorities' ability to prosecute cases and greater efforts by judges to shield the identity of witnesses during proceedings. However, they noted that the State Court and State Prosecutor's Office lacked effective public relations departments, that they had had difficulty in gaining access to public information, and that other media outlets engage in selective, biased reporting.

¶19. (U) This generally positive outlook contrasted sharply with those of the Mothers of Srebrenica, who complained bitterly about what they characterized as the failure of Bosnian authorities and the international community to arrest Radovan Karadzic and Ratko Mladic. They said they would discuss what they deemed an insufficient number of investigators assigned to Srebrenica in an upcoming meeting with the State Prosecutor's Office (Note: The Prosecutor's Office has assigned four investigators to Srebrenica, not one as the Mothers claimed. End Note.) In closing, they requested that the United States share all documents, especially aerial photography, related to the Srebrenica massacre, including those that have not been passed to ICTY. The Mothers also said they plan to publish a book next year in which they accuse Richard Holbrooke of making a secret deal granting Karadzic immunity from arrest.

#### Comment

-----

¶10. (C) Overall, the U.S. delegation was pleased with the progress of the State Court and State Prosecutor's Office in the last year. The State Prosecutor's case selection strategy, along with the national action plan for war crimes (once completed, adopted, and implemented), will go a long

way towards increasing the efficiency and transparency of both the Court and Prosecutor's Office. The gains made so far are the result of the work of international officials present at both institutions -- officials whose mandate must end, according to legislation, by 2009. If the international presence is not extended beyond 2009, there is a risk that recent progress and the positive momentum at the State Court and State Prosecutor's Office will be lost.

¶11. (C) Comment cont. The location of the ICTY archives will be a difficult issue to manage politically over the coming months. Most internationals believe that BiH is not ready to manage and protect the archives should they be transferred to Sarajevo. However, RDS and officials at the State Court argued strongly to have the original documents in Sarajevo. We will have to manage Bosnian expectations while considering a location for the archives that will provide appropriate and necessary access to different groups of people while also contributing to a permanent historical record. End Comment.

¶12. (U) This cable has been cleared by S/WCI Matt Lavine, Emb. The Hague Denise Manning, and EUR/SCE Anna Stinchcomb.  
ENGLISH